IN THE HIGH COURT OF BOMBAY AT GOA

CONTEMPT PETITION NO. 16 OF 2005

SILVIA COUTINHO AND ANR., ...Petitioners

Versus

THE DEPUTY COLLECTOR AND LAND ACQUISITION OFFICER AND ANR., ...Respondents

Mr. A. F. Diniz, Advocate for the applicant.
Mr. M. Salkar, Add. Govt. Advocate for the respondent/State.

Coram:- R.M.S. KHANDEPARKAR, J.

Date:- 9th January, 2006

P.C.

Heard. It is the contention of the applicant that while disposing of Writ Petition No.228/04, this Court had accepted the statement made on behalf of the respondent that necessary reference under Section 28A(3) of the Land Acquisition Act, 1894 would be made to the reference Court. Inspite of the said clear statement, the Land Acquisition Officer under letter dated 7.12.2004 made a query to the District Court as to whether the interested parties are entitled to file reference under Section 28A when they had been already paid the amount under Section 28A vide Award dated 17.4.1998. The reference Court considering the said letter as a mere letter for opinion of the Court, did not proceed with the matter under Section 28A(3) of the said Act. These facts are not in dispute.

The learned Addl. Govt. Advocate for the respondent has fairly conceded that it was a mistake on the part of the Land Acquisition Officer to make such a query and in view of the said statement in Writ Petition No.228/04, the Land Acquisition Officer ought to have merely referred the matter under Section 28A(3) of the said Act. It is also further submitted that the letter dated 7.12.04 shall be be treated as reference

application and the Land Acquisition Officer will forward all the necessary documents to the reference Court within two weeks to enable the reference Court to proceed with the reference under Section 28A(3) of the said Act. While accepting the said statement, it is necessary to observe that the Land Acquisition Officers and Collectors should bear in mind that they cannot assume the powers of the reference Court and once statement is made before this Court that the reference would be made, they should comply with such statement in letter and spirit. However, while accepting the statement made on behalf of the respondent by the learned Addl. Govt. Advocate, the letter dated 7.12.04 shall be treated as reference under Section 28A(3) of the Act. The Land Acquisition Officer/Collector shall also furnish all the necessary documents to the reference Court to enable the reference Court to proceed with the matter, in accordance with law. With these observations, the contempt petition is disposed of.

R.M.S. KHANDEPARKAR, J.

ssm.